

BEFORE THE HUMAN RIGHTS COMMISSION
OF THE STATE OF MONTANA

BRIAN WHITEBEAR,

Charging Party,

-v-

MONTANA DEPARTMENT OF
CORRECTIONS (#0065011954) and
DAWSON COUNTY CORRECTIONAL
FACILITY (#0065011812),

Respondents.

Case No's: 0065011954 & 0065011812

ORDER

Brian Whitebear (Whitebear) filed complaints with the Department of Labor and Industry (Department) alleging that the Montana Department of Corrections and the Dawson County Correctional Facility discriminated against him based on disability and race and retaliated against him for filing a previous Human Rights Acts complaint with the Department. Following an informal investigation, the Department determined that a preponderance of the evidence did not support Whitebear's allegations of unlawful discrimination or retaliation. The Department issued a Notice of Dismissal concerning each Respondent. Whitebear filed objections with the Montana Human Rights Commission (Commission). The Commission considered the matters on September 20, 2006.

The Commission reviews a decision of the Department to dismiss a complaint using an abuse of discretion standard. *Mont. Code Ann. § 49-2-509(4)(2003); Admin. R. Mont. 24.9.1714(3)*. After careful consideration, the Commission concludes the determinations of the Department to dismiss the complaints are not an abuse of discretion. The determinations are supported by thorough investigations, the findings of fact are sufficiently supported and the conclusions of law are correct.

A party may ask a district court to review a decision of the Commission to affirm the dismissal of a complaint. *Admin. R. Mont. 24.9.1714(7)*; *See also Mont. Code Ann. § 2-4-702*. If a charging party chooses to commence a civil action, charging party has 90 days after the receipt of this order to petition a district court, in the district where the alleged violation occurred, for the appropriate relief. *Mont. Code Ann. § 49-2-509(5) (2003)*; *Admin. R. Mont. 24.9.1714(5)*. If a charging party fails to commence a civil action within 90 days, the claim is time barred. *Id.*

IT IS HEREBY ORDERED, that Brian Whitebear's objections are **overruled**. The Commission adopts and affirms the determinations of the Human Rights Bureau to dismiss the complaints against both Respondents.

DATED this ____ day of September, 2006.

Chair Franke Wilmer
Human Rights Commission

CERTIFICATE OF SERVICE

The undersigned secretary for the Human Rights Commission certifies that a true and correct copy of the foregoing ORDER was mailed to the following by U.S. Mail, postage prepaid, on this _____ day of September, 2006.

BRIAN WHITEBEAR
AO 42751
DAWSON COUNTY CORRECTIONAL FACILITY
440 COLORADO BOULEVARD
GLENDALE MT 59330

STEVE RAY
DAWSON COUNTY CORRECTIONAL FACILITY
440 COLORADO BOULEVARD
GLENDALE MT 59330

COLLEEN WHITE
DEPARTMENT OF CORRECTIONS
PO BOX 201301
HELENA MT 59620

JUDY BOVINGTON
DEPARTMENT OF LABOR AND INDUSTRY
OFFICE OF LEGAL SERVICES
PO BOX 1728
HELENA MT 59624-1728

Montana Human Rights Bureau